

WOOL CONSIGNMENT CONDITIONS



1. APPLICATION

- 1.1. These terms and conditions govern the consignment of wool which You have delivered, propose to deliver, or have delivered to Elders (Wool).
- 1.2. Other terms and conditions will govern the sale, storage and handling of Your Wool, which may vary depending on the method by which You sell Your Wool (Sale Conditions). If there is any direct inconsistency between these terms and conditions and the Sale Conditions the Sale Conditions will take priority.
2. Appointment of Elders.
- 2.1. You appoint Elders as Your agent to sell Your Wool. You authorise Elders to sell Your Wool, in accordance with any instructions You may give Elders or otherwise subject to Elders' discretion.

3. TITLE AND RISK

- 3.1. Title and risk to Your Wool remains with You until it passes to the purchaser in accordance with the Sale Conditions. Title to the Wool does not pass to Elders.
- 3.2. You warrant to Elders that:
 - a) You own and are authorised to sell the Wool;
 - b) all security interests over the Wool have been disclosed to Elders in writing prior to consignment and any new security interests will be disclosed to Elders immediately upon creation; and
 - c) You have not appointed another agent to sell the Wool on Your behalf.

4. PAYMENT FOR WOOL, COMMISSION AND COSTS

- 4.1. If Elders sells Your Wool, Elders or AWH as its agent will issue an invoice to the purchaser as Your agent.
- 4.2. Elders will pay the purchase price to You, less any amounts payable by You to Elders under clauses 4.3 or 4.4 in accordance with the Sale Conditions.
- 4.3. You are required to pay the following costs and brokerage to Elders in consideration for Elders selling Your Wool:
 - a) unless otherwise agreed, Elders' standard rate of brokerage applicable as at the date of sale;
 - b) all costs and expenses incurred by Elders directly in connection with the sale of Your Wool, including (without limitation) freight, handling and testing costs, and government levies, taxes or other duties;
 - c) any Wool-in-Transit Delivery Warranty fees under clause 8;
 - d) any storage fee under clause 4.6; and
 - e) any other amount payable to Elders on any account or to a third party under the Sale Conditions.
- 4.4. If you received a shearing advance from Elders, Elders will deduct and retain the outstanding shearing advance balance from the proceeds of the sale of Your Wool.
- 4.5. Any amounts which You owe Elders under clause 4.3 that are not recovered from the proceeds of Your Wool sale (including because no sale occurs or the amounts are not owed until after the sale proceeds are paid to You) will be debited against Your client trading account.
- 4.6. Elders may charge You a storage fee if Your Wool is held in storage for a period exceeding six months. This fee will apply from the end of the six month period. The storage fee will be charged at Elders' standard rates for storage, which are available from Elders upon request. These fees are subject to change from time to time.

5. TERMINATION OF ELDERS' ENGAGEMENT

- 5.1. Either party may terminate Elders' appointment as Your agent under these terms and conditions on seven days' notice in writing to the other party.
- 5.2. Termination of Elders' appointment does not affect Your obligations to pay any amounts owed to Elders under these terms and conditions.
- 5.3. You grant Elders a lien over Your Wool until all outstanding costs, commissions and advances under clauses 4.3 and 4.4 have been paid in full. If this agreement is terminated before Your Wool is sold, Elders is entitled to retain possession of Your Wool until You have paid all amounts owing to it under these terms and conditions.

6. GST

- 6.1. If GST is payable by a supplier on a supply made under this agreement, then to the extent that the consideration is expressed as an amount of money (the monetary consideration) for that supply and is not stated to include an amount in respect of GST, the supplier may increase the monetary consideration by the applicable amount of GST and the recipient must pay that increased amount at the same time and to the same extent as any part of the monetary consideration that is payable to the supplier in respect of that supply.
- 6.2. Words defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) have the same meaning when used in this agreement in clauses concerning GST.

7. LIABILITY

- 7.1. You indemnify and keep Elders indemnified at all times against any liabilities, losses, damages, costs or expenses incurred or suffered by Elders and all actions, proceedings, claims or demands made against Elders relating to the quality or condition of Your Wool or Your Wool matching any description provided by You (or by a Wool classer or other person acting for You), other than to the extent caused by the wilful or negligent acts or omissions of Elders.

- 7.2. To the extent permitted by law, Elders' liability under this agreement excludes all indirect or consequential losses or damages (including loss of profits, loss of contracts, loss of opportunity or loss of reputation), irrespective of how those losses were caused (including as a result of Elders' negligence), even if such losses were reasonably foreseeable.

8. WOOL-IN-TRANSIT DELIVERY WARRANTY

- 8.1. Definitions.
In this clause 8, the following terms have the following meanings:
 - a) "Chain of Responsibility Laws" means the Road Traffic (Vehicles) Act 2012 (WA), the "Heavy Vehicle National Law" set out in the schedule to the Heavy Vehicle National Law Act 2012 (Qld), and laws that are substantively modelled on the "Heavy Vehicle National Law".
 - b) "Delivery Location" means the wool selling centre at which the Wool is to be sold.
 - c) "Fee" means the percentage of the sales price of Your Wool, or the potential sale price of Your Wool if it is not sold, that Elders charges for the provision of the WIT Delivery Warranty, as published from time to time on www.elders.com.au, or as otherwise agreed with Elders.
 - d) "WIT Delivery Warranty" means the warranty in favour of You provided by Elders upon the assumption of a contractual delivery obligation in clause 8.3.a) as limited by clause 8.5.
 - e) "Transport Documentation" means the relevant documents relating to the transport of the Wool.
- 8.2. Application, fee and payment
 - a) In consideration of Elders agreeing to provide the WIT Delivery Warranty in accordance with clause 8.3.a), You agree to pay the Fee to Elders in accordance with clause 8.2.
 - b) If You do not wish to receive the WIT Delivery Warranty, You must notify Elders in writing prior to consigning Your Wool.
 - c) You direct Elders to deduct the Fee from the sales proceeds payable to You prior to those sales proceeds being paid to You.
 - d) The Fee is exclusive of GST (unless expressly state otherwise) and You will pay GST in addition to the Fee (where applicable) and will pay GST with respect to any other taxable supply in accordance with this clause.
- 8.3. WIT Delivery Warranty
 - a) Subject to clause 8.3.b), and in consideration of You agreeing to pay the Fee in accordance with clause 8.2.a) and otherwise to abide by Your obligations under these terms and conditions, Elders:
 - i. assume a contractual obligation to have the Wool delivered to, and stored at, the Delivery Location; and
 - ii. Warrants in favour of You that the Wool will be delivered and stored without damage.
 - b) Elders' obligations to You in clause 8.3.a) only apply where delivery of the Wool is occurring by road or rail and commences upon the sheep entering the shearing shed and ends on:
 - i. where the Wool is sold at auction, the fall of the hammer; and
 - ii. where the Wool is sold by private sale, when risk passes to the buyer.
- 8.4. Consequences of damage to wool
 - a) If, contrary to the WIT Delivery Warranty, any Wool is damaged during delivery or during storage, Elders will, subject to You having complied with Your obligations under these Wool Consignment Conditions, pay to You damages equal to:
 - i. The value of the damaged Wool, as calculated under clause 8.4.b);
 - ii. The amount of reasonable costs incurred by You in relation to the removal and disposal of debris, up to a maximum of \$20,000; and
 - iii. The amount of reasonable additional costs you incur to prevent further damage to Wool that has been damaged, up to a maximum of \$20,000.
 - b) Subject to clause 8.4.a), Elders will calculate the value of the damaged Wool by having regard to the prices that comparable wool achieved, or would achieve, less in each case, any levies, cartage, commissions and other charges ordinarily payable in transactions similar to the transaction that was proposed to take place on a pro rata basis.
 - c) Elders' calculation of the value of the damaged Wool under clause 8.4.b) is final and binding.
 - d) You acknowledge and agree that the payment of damages in accordance with this clause 8.4 is the sole and exclusive remedy available to You in connection with any breach by Elders of these terms and conditions, and Elders is not liable for any loss or damage arising in connection with these terms and conditions and is not obliged to indemnify You for its loss other than for any liability that it may have to pay damages to You under this clause 8.4.
 - e) If Elders makes a payment in accordance with clause 8.4.a), title in the Wool to which that payment relates automatically passes to Elders.
- 8.5. Qualifications and limitations
 - a) Elders' obligation to pay damages in connection with these terms and conditions, including in accordance with clause 8.4, is reduced or extinguished (as the case may be) to the extent that:
 - i. the Wool was not delivered, or was delivered damaged, to the Delivery Location because of dishonesty or fraud by, or in Wool was damaged after being stored on farm for a period of greater than 90 days after the sheep from which the wool was shorn entered the shearing shed;
 - ii. the Wool was damaged by:
 - A. depreciation, gradual deterioration, mildew, mould, dampness of atmosphere variations in temperature;
 - B. insects or vermin such as rats, mice, possums and birds;
 - C. any process of re-bailing, cleaning, pressing, processing or inspection of the Wool; or
 - D. inherent vice;
 - iii. the Wool was damaged indirectly or directly from livestock that:
 - A. has failed any test for suitability of product; or
 - B. is ordered by Government authorities to be quarantined or killed to restrict spread of infectious diseases;
 - iv. You failed to carry out Your obligations in strict accordance with clause 8.8, including the obligation to complete the Transport Documentation completely and correctly;
 - v. the Wool was loaded, or transported, otherwise than in compliance with the Chain of Responsibility Laws; or
 - vi. You caused, or contributed to, the circumstances giving rise to the obligation (including any failure by You to take reasonable steps to mitigate those circumstances).
 - b) Each qualification and limitation in this clause 8.5 is to be construed and applied independently of the others and is not limited by any other qualification or limitation.
- 8.6. Notification of claims
If You believe that circumstances exist that would entitle it to a payment under clause 8.4.a), You must:
 - a) notify Elders of those circumstances within 48 hours of those circumstances occurring; and
 - b) provide Elders with all information reasonably required by Elders relating to the circumstances giving rise to the claim within 31 days of the relevant circumstances.
- 8.7. Engagement of carrier
 - a) Subject to any contrary agreement, Elders will:
 - i. deliver the Wool; or
 - ii. arrange as agent the method by which the delivery is undertaken; or
 - iii. appoint You as its agent to deliver the Wool, and the relevant party will then be responsible to transport the Wool, or to engage a reputable carrier to transport the Wool, to the Delivery Location.
 - b) If You are appointed as Elders agent pursuant to clause 8.7.a), You have no authority to bind Elders, and must not represent that You have authority to bind Elders, other than specifically outlined in that clause.
 - c) You will be responsible to pay either directly to the carrier providing the relevant transport or to Elders all costs, charges and taxes that arise as a result of delivery obligations undertaken pursuant to clause 8.7.a).
 - d) You indemnify Elders against all claims, costs, liabilities, losses and expenses incurred by Elders arising from You being appointed as Elders agent except to the extent arising from the wilful or negligent acts or omissions of Elders.
- 8.8. Transport documentation
 - a) You:
 - i. consent to be, and must ensure that you are, named as the "consignor" (or a similar expression) in all relevant Transport Documentation; and
 - ii. must ensure that all Transport Documentation is complete and correct, failing which clauses 8.1 to 8.7, and Elders' obligations under them, are void in relation to the relevant consignment of Your Wool.
 - b) If clauses 8.1 to 8.7 are voided pursuant to clause 8.8.a), Elders will be entitled to retain any fees paid by You pursuant to clause 8.2 before it was voided.
 - c) Any Fees retained by Elders pursuant to clause 8.8.b), are considered to be a genuine estimate of Elders' loss as a result of clauses 8.1 to 8.7 being voided and the retention of the fees by Elders is not intended to operate as a penalty.
 - d) Elders does not consent to be named as consignor (or any similar expression) in any Transport Documentation.
9. MISCELLANEOUS
 - 9.1. This agreement is governed by the laws of the State or Territory in which the wool store to which the Wool is consigned is located.
 - 9.2. If a provision of this agreement is illegal or unenforceable, it will be severed from these terms and conditions and the remaining terms and conditions will continue in full force and effect.
 - 9.3. The waiver of a breach of these terms and conditions will not be a waiver of any other breach of that provision or the breach of any other provision.